

**UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO**

<p>In re:</p> <p>THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO,</p> <p>as representative of</p> <p>THE COMMONWEALTH OF PUERTO RICO, <i>et al.</i></p> <p>Debtors.¹</p>	<p>PROMESA Title III</p> <p>No. 17 BK 3283-LTS</p> <p>(Jointly Administered)</p>
<p>In re:</p> <p>THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO,</p> <p>as representative of</p> <p>PUERTO RICO ELECTRIC POWER AUTHORITY,</p> <p>Debtor.</p>	<p>PROMESA Title III</p> <p>No. 17 BK 4780-LTS</p> <p>Re: ECF Nos. 2296, 2360, 2361</p>
<p>PUERTO RICO ELECTRIC POWER AUTHORITY,</p> <p>Movant,</p> <p>v.</p>	

¹ The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico ("Commonwealth") (Bankruptcy Case No. 17-BK-3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17-BK-3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17-BK-3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17-BK-3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17-BK-4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority ("PBA") (Bankruptcy Case No. 19-BK-5523-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

M SOLAR GENERATING, LLC, WINDMAR
RENEWABLE ENERGY, and YFN YABUCOA
SOLAR, LLC

Respondents.

**URGENT CONSENSUAL MOTION OF PREPA FOR LEAVE TO EXCEED PAGE
LIMIT FOR OMNIBUS REPLY TO OPPOSITIONS OF M SOLAR AND YFN
YABUCOA TO PREPA'S OMNIBUS MOTION FOR ORDER (A) AUTHORIZING
PREPA TO REJECT CERTAIN POWER PURCHASE AND OPERATING
AGREEMENTS, AND (B) GRANTING RELATED RELIEF**

To The Honorable United States District Court Judge Laura Taylor Swain:

The Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”), for itself and as representative of the Puerto Rico Electric Power Authority (“PREPA” or the “Debtor”) in this Title III case pursuant to section 315(b) of the *Puerto Rico Oversight, Management and Economic Stability Act* (“PROMESA”),² respectfully submits this urgent motion (the “Urgent Motion”) requesting entry of an order, substantially in the form annexed hereto as **Exhibit A** (the “Proposed Order”), allowing the Oversight Board to exceed the fifteen (15) page limit for memoranda of law in support of replies set forth in Paragraph I.E. of the *Fourteenth Amended Notice, Case Management and Administrative Procedures*, [Case No. 17-03283-LTS, ECF No. 15894] (the “Case Management Procedures”) to file a forthcoming *Omnibus Reply to Oppositions of M Solar and YFN Yabucoa to PREPA’s Omnibus Motion for Order (A) Authorizing PREPA to Reject Certain Power Purchase and Operating Agreements, and (B) Granting Related Relief* (the “Omnibus Reply”) of no more than twenty (20) pages, exclusive of the cover page, the table of contents, the table of authorities, the signature page, exhibits, and the certificate of service. In support of this Urgent Motion, the Oversight Board respectfully states as follows:

JURISDICTION AND VENUE

1. The United States District Court for the District of Puerto Rico (the “Court”) has subject-matter jurisdiction over this matter pursuant to PROMESA § 306(a). Venue is proper pursuant to PROMESA § 307(a).

RELIEF REQUESTED

2. The Oversight Board respectfully requests leave to exceed the page limit for memoranda of law in support of motions laid out in the Case Management Procedures and instead

² PROMESA is codified at 48 U.S.C §§ 2101–2241.

be limited to no more than twenty (20) pages with respect to the Omnibus Reply, exclusive of the cover page, tables of contents and authorities, signature pages, exhibits, and certificate of service.

BACKGROUND

3. On November 17, 2020, the Oversight Board, filed the *Omnibus Motion of Puerto Rico Electric Power Authority for Order (A) Authorizing PREPA to Reject Certain Power Purchase and Operating Agreements, and (B) Granting Related Relief* [ECF No. 15178 in Case No. 17-3283 and ECF No. 2296 in Case No. 17-4780] (the “Motion”),³ seeking approval of PREPA’s rejection of nine (9) power purchase and operating agreements (“PPOAs”) for renewable energy generation projects (the “Rejected PPOAs”).

4. Windmar Renewable Energy, Inc. and Windmar Renewable Energy, LLC (collectively, “Windmar”) are party to seven (7) of the Rejected PPOAs (collectively, the “Windmar PPOAs”). M Solar Generating, LLC (“M Solar”) and YFN Yabucoa Solar, LLC (“YFN Yabucoa”) are each party to one (1) Rejected PPOA.

5. Of these PPOAs, Windmar is party to (i) two (2) PPOAs that are currently operational (the “Windmar Operational PPOAs”), (ii) four (4) PPOAs that were non-operational and have been terminated pursuant to termination notices issued on April 23, 2020 (the “Windmar Terminated PPOAs”), and (iii) one (1) PPOA (the “Windmar Non-Operational PPOA”) that is non-operational, but has not been terminated because until recently, it was the subject of renegotiation efforts.

6. After PREPA filed the Motion, counsel to Windmar, M Solar, and YFN Yabucoa contacted PREPA to indicate that Windmar would not oppose PREPA’s rejection of the Windmar

³ Capitalized terms not otherwise defined herein shall have the meanings given to them in the Motion.

Terminated PPOAs and Windmar Non-Operational PPOA. Windmar is currently in negotiations with PREPA regarding amendments to the Operational PPOAs, and did not file an objection to the Motion regarding these PPOAs. PREPA has agreed to adjourn the Motion as to these PPOAs at this time, subject to having it heard at a later time if necessary, or withdrawn, as applicable.

7. On January 7, 2021, counsel for M Solar and YFN Yabucoa (the “Objectors”) filed urgent motions to exceed the thirty-five (35) page limit for reply briefs set forth in ¶ I.E of the Case Management Procedures. *See Urgent Motion of M Solar for Leave to Exceed Page Limit in Their Motion in Opposition to PREPA’s Request to Reject Certain PPOAs* [ECF No. 2356 in Case No. 17-4780] and *Urgent Motion of YFN Yabucoa/Solar for Leave to Exceed Page Limit in Their Motion in Opposition to PREPA’s Request to Reject Certain PPOAs* [ECF No. 2357 in Case No. 17-4780] (together, the “Motions to Exceed the Page Limit”).

8. The Court granted the Motions to Exceed the Page Limit the same day they were filed. *See Order Granting Urgent Motion of YFN Yabucoa/Solar for Leave to Exceed Page Limit* [ECF No. 2358 in Case No. 17-4780] and *Order Granting Urgent Motion of M. Solar for Leave to Exceed Page Limit* [ECF No. 2359 in Case No. 17-4780].

9. On January 8, 2021, counsel for M Solar and YFN Yabucoa filed objections to the Motion each totaling over fifty (50) pages, exclusive of the cover page, the table of contents, the table of authorities, the signature page, exhibits, and the certificate of service. *See Opposition by M Solar to Puerto Rico Electric Power Authority (PREPA) Omnibus Motion for Order (A) Authorizing PREPA to Reject Certain Power Purchase and Operating Agreements, and (B) Granting Related Relief* [ECF No. 2360 in Case No. 17-4780] (the “M Solar Objection”). and *Opposition by YFN Yabucoa/Solar to Puerto Rico Electric Power Authority (PREPA) Omnibus Motion for Order (A) Authorizing PREPA to Reject Certain Power Purchase and Operating*

Agreements, and (B) Granting Related Relief [ECF No. 2361 in Case No. 17-4780] (the “YFN Yabucoa Objection,” and together with the M Solar Objection, the “Objections”).

BASIS FOR RELIEF

10. Paragraph I.E. of the Case Management Procedures provides that “[u]nless prior permission has been granted . . . memoranda of law in support of Replies are limited to fifteen (15) pages.” Case Management Procedures ¶ I.E.

11. To adequately respond to all arguments contained in the Objections (which in the aggregate total over one hundred (100) pages), the Oversight Board respectfully requests leave to file a single Omnibus Reply not to exceed twenty (20) pages in length, exclusive of the cover page, the table of contents, the table of authorities, the signature page, exhibits, and the certificate of service.

12. The Oversight Board respectfully submits that the request made herein is reasonable in light of the volume of the Objections received, as described above.

13. The Oversight Board conferred with counsel for YFN Yabucoa and M Solar regarding the Urgent Motion, and counsel consented to the relief requested.

14. Finally, no prior request for the relief sought in this Urgent Motion has been made to this or any other court

CONCLUSION

15. For the foregoing reasons, the Oversight Board respectfully requests the Court enter the Proposed Order attached as **Exhibit A**, granting the relief requested herein and all other relief as is just and proper.

**Certification of Compliance with
Local Rule 9013-1 and the Fourteenth Amended Case Management Procedures**

16. Pursuant to Section I.H. of the Case Management Procedures, undersigned counsel certifies that it engaged in reasonable, good-faith communications with counsel for the Objectors regarding the requested extension, and these parties do not oppose the requested relief. Moreover, in accordance with Local Bankruptcy Rule 9013-1(a)(2), undersigned counsel certifies that counsel has carefully examined the matter and concluded that there is a true need for expedited consideration of the Urgent Motion, and that Movants have not created the urgency through lack of due diligence on their part. The undersigned further certifies that Movants made a bona fide and good faith effort to resolve the matter without a hearing.

[Remainder of Page Intentionally Left Blank]

Dated: April 13, 2021
San Juan, Puerto Rico

Respectfully submitted,

/s/ Paul V. Possinger

Martin J. Bienenstock (*pro hac vice*)

Paul V. Possinger (*pro hac vice*)

Ehud Barak (*pro hac vice*)

PROSKAUER ROSE LLP

Eleven Times Square

New York, NY 10036

Tel: (212) 969-3000

Fax: (212) 969-2900

Email: mbienenstock@proskauer.com

ppossinger@proskauer.com

ebarak@proskauer.com

*Attorneys for the Financial
Oversight and Management Board
as representative for PREPA*

LUIS F. DEL VALLE-EMMANUELLI

By: /s/ Luis F. Del Valle-Emmanuelli

By: Luis F. del Valle-Emmanuelli

USDC-PR No. 209514

P.O. Box 79897

Carolina, Puerto Rico 00984-9897

*Attorney for the Financial Oversight and
Management Board as representative of
PREPA*

CERTIFICATE OF SERVICE

I hereby certify that, on this same date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notifications of such filing to all CM/ECF participants in this case.

/s/ Luis F. del Valle-Emmanuelli
Luis F. del Valle-Emmanuelli

EXHIBIT A

Proposed Order

**UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO**

<p>In re:</p> <p>THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO,</p> <p>as representative of</p> <p>THE COMMONWEALTH OF PUERTO RICO, <i>et al.</i></p> <p>Debtors.¹</p>	<p>PROMESA Title III</p> <p>No. 17 BK 3283-LTS</p> <p>(Jointly Administered)</p>
<p>In re:</p> <p>THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO,</p> <p>as representative of</p> <p>PUERTO RICO ELECTRIC POWER AUTHORITY,</p> <p>Debtor.</p>	<p>PROMESA Title III</p> <p>No. 17 BK 4780-LTS</p> <p>Re: ECF Nos. 2296, 2360, 2361</p>
<p>PUERTO RICO ELECTRIC POWER AUTHORITY,</p> <p>Movant,</p> <p>v.</p>	

¹ The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico ("Commonwealth") (Bankruptcy Case No. 17-BK-3283- LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17-BK-3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17-BK-3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17-BK-3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17- BK-4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority ("PBA") (Bankruptcy Case No. 19-BK-5523-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

M SOLAR GENERATING, LLC, WINDMAR
RENEWABLE ENERGY, and YFN YABUCOA
SOLAR, LLC

Respondents.

**[PROPOSED] ORDER GRANTING URGENT CONSENSUAL MOTION OF PREPA
FOR LEAVE TO EXCEED PAGE LIMIT FOR OMNIBUS REPLY TO OPPOSITIONS
OF M SOLAR AND YFN YABUCOA TO PREPA’S OMNIBUS MOTION FOR ORDER
(A) AUTHORIZING PREPA TO REJECT CERTAIN POWER PURCHASE AND
OPERATING AGREEMENTS, AND (B) GRANTING RELATED RELIEF**

Upon the *Urgent Consensual Motion of PREPA for Leave to Exceed Page Limit for Omnibus Reply to Oppositions of M Solar and YFN Yabucoa to PREPA’s Omnibus Motion for Order (A) Authorizing PREPA to Reject Certain Power Purchase and Operating Agreements, and (B) Granting Related Relief* (the “Urgent Motion”);² and the Court having found it has subject-matter jurisdiction over this matter pursuant to PROMESA section 306(a); and it appearing that venue in this district is proper pursuant to PROMESA section 307(a); and the Court having found that the Oversight Board provided adequate and appropriate notice of the Urgent Motion under the circumstances and that no other or further notice is required; and upon the record herein, after due deliberation thereon, the Court having found that good and sufficient cause exists for the granting of the relief as set forth herein,

IT IS HEREBY ORDERED THAT:

1. The Urgent Motion is GRANTED as set forth herein.
2. The Oversight Board may file an Omnibus Reply that is not to exceed twenty (20) pages, exclusive of the cover page, the table of contents, the table of authorities, the signature page, exhibits, and the certificate of service.

² Capitalized terms not otherwise defined herein shall have the meanings given to them in the Urgent Motion.

3. The Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order.

Dated: _____, 2021.

SO ORDERED:

HONORABLE LAURA TAYLOR SWAIN
United States District Judge